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503-588-6173*

**DECISION OF THE PLANNING ADMINISTRATOR**

**SUBDIVISION TENTATIVE PLAN / VALIDATION OF UNIT OF LAND CASE NO.:**  
**SUB-VUL24-06**

**APPLICATION NO.:** 24-107821-PLN

**NOTICE OF DECISION DATE:** December 17, 2024

**REQUEST:** A consolidated application to validate one unit of land unlawfully created by deed and a tentative subdivision to divide approximately .73 acres to create seven townhouse parcels and open space.

The subject property is approximately .73 acres in size, zoned RS (Single Family Residential), and located at the 2441 Evergreen Avenue NE - 97301 (Marion County Assessor's Map and Tax Lot number: 073W13CD1/ 0100/ 0101/ 0000).

**APPLICANT:** NICHOLAS RHOTEN

**LOCATION:** 2441 Evergreen Ave NE, Salem OR 97301

**CRITERIA:** Salem Revised Code (SRC) Chapters 205.010(d) – Subdivision Tentative Plan; 205.060(d) – Validation of Unit of Land

**FINDINGS:** The findings are in the attached Decision dated December 17, 2024

**DECISION:** The **Planning Administrator APPROVED** Subdivision Tentative Plan, Validation of Units of Land Case No. SUB-VUL24-06 subject to the following conditions of approval:

- Condition 1:** Prior to final plat of the proposed Subdivision, the Validation of a Unit of Land shall be recorded.
- Condition 2:** Lots 1-7 shall be limited to the development of townhouses and comply with the special use provisions of SRC 700.085.
- Condition 3:** Prior to final plat approval for the subdivision, the applicant shall demonstrate that required easements will meet the standards in SRC 200.050(d) no later than the time of plat recording, unless an adjustment to this standard is approved pursuant to SRC 200.050(d).
- Condition 4:** Prior to final plat approval of the subdivision, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

**NOTICE OF DECISION**

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



- Condition 5:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in the private streets and future impervious surfaces on all proposed lots.
- Condition 6:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 4-inch public water main, or 8-inch public water main if providing water supply to a fire hydrant, within the new internal streets to serve the proposed subdivision. The water main shall be constructed pursuant to the Public Works Design Standards.
- Condition 7:** Prior to final plat approval of the subdivision, the applicant shall provide an updated utility plan that demonstrates how each townhouse lot will be provided with independent connection to the public water system, as required by SRC Chapter 72 and the Public Works Design Standards.
- Condition 8:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 8-inch public sanitary sewer main within the new internal streets to serve the proposed subdivision. The sanitary sewer shall be constructed pursuant to the Public Works Design Standards.
- Condition 9:** Prior to final plat submittal of the subdivision, the applicant shall provide documentation of an executed private easement granting the right to construct, access, and maintain a private stormwater service lateral on the adjacent State-owned property. This easement must allow connection to the public stormwater main located within the State-owned property.
- Condition 10:** Prior to final plat approval of the subdivision, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 11:** Prior to final plat approval of the subdivision, dedicate a public access and utility easement to the City of Salem over the new private streets and sidewalks to allow access and maintenance of the proposed public utility infrastructure located within the subdivision. The easement shall provide minimum easements widths required for all public infrastructure as described in the Public Works Design Standards Section 1.8 (Easements).
- Condition 12:** Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct internal private streets to Local Street standards as specified in the Public Works Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions.
- Condition 13:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), install street trees to the maximum extent feasible along Evergreen Avenue NE and the new internal private streets.

- Condition 14:** Private Street Trees planted along the new internal private streets shall be maintained in good health and replaced if damaged or dead.
- Condition 15:** Prior to final plat, the applicant shall provide documentation of the homeowner’s association meeting SRC 205.035(c) demonstrating that the private streets and related facilities shall be perpetually operated and maintained by a homeowners' association.
- Condition 16:** Prior to final plat approval of the subdivision, provide a 10-foot-wide public utility easement along the frontage of Evergreen Avenue NE.
- Condition 17:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the southern side of Street A (Labeled as “Private Street” on the Preliminary Subdivision Plan).
- Condition 18:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the western side of Street B (Labeled as “Private Drive” on the Preliminary Subdivision Plan).
- Condition 19:** Prior to final plat approval, the applicant shall submit an updated driveway approach plan that demonstrates compliance with SRC 804.050(b)(1). Driveway approaches serving a pair of townhouses (two units) shall be limited to a maximum width of 24-feet. Driveway approaches serving a single townhouse (one unit) shall be limited to a maximum width of 14-feet.
- Condition 20:** Prior to final plat of the subdivision, the applicant shall provide documentation of the homeowner’s association meeting SRC 205.035(c) demonstrating that the open space lot shall be perpetually operated and maintained by a homeowners' association.

The rights granted by the attached decision must be exercised, or an extension granted, by January 14, 2027, or this approval shall be null and void.

Application Deemed Complete:	<u>October 7, 2024</u>
Notice of Decision Mailing Date:	<u>December 17, 2024</u>
Decision Effective Date:	<u>January 14, 2025</u>
State Mandate Date:	<u>March 4, 2025</u>

Case Manager: Jacob Brown, Planner II, [jrbrown@cityofsalem.net](mailto:jrbrown@cityofsalem.net), 503-540-2347

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m., Thursday, January 2, 2025. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 205. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public

hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

**BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM**

**DECISION**

**IN THE MATTER OF THE APPROVAL ) FINDINGS AND ORDER**  
**OF TENTATIVE SUBDIVISION AND )**  
**VALIDATION OF UNIT OF LAND )**  
**CASE NO. SUB-VUL24-06; )**  
**2441 EVERGREEN AVE NE ) DECEMBER 17, 2024**

In the matter of the application for a Subdivision Tentative Plan and Validation of Unit of Land submitted by the applicant’s representative, Nicholas Rhoten with Matheny Law Firm, on behalf of the applicant and the property owner, Tu Casa Real Estate represented by Jose Gonzalez, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

**REQUEST**

**Summary:** A validation of unit of land for one property, then a subdivision to divide the area to create seven townhouse lots and open space.

**Request:** A consolidated application to validate one unit of land unlawfully created by deed and a tentative subdivision to divide approximately .73 acres to create seven townhouse parcels and open space.

The subject property is approximately .73 acres in size, zoned RS (Single Family Residential), and located at the 2441 Evergreen Avenue NE - 97301 (Marion County Assessor's Map and Tax Lot number: 073W13CD/ 100/ 101/ 10000).

**PROCEDURAL FINDINGS**

**1. Background**

A consolidated application for a Tentative Subdivision, Validation of Unit of Land was filed by Nicholas Rhoten, of Matheny Law Firm, on behalf of the applicant and property owner, Tu Casa Real Estate, represented by Jose Gonzalez, proposing to subdivide property located at 2441 Evergreen Avenue NE.

After additional requested information was provided by the applicant, the applications were deemed complete for processing and public notice of the proposal was subsequently sent, pursuant to SRC requirements, on October 7, 2024. SRC 300.520(b) requires the applicant for a tentative subdivision to provide a posted notice on the subject property no earlier than 14 and no later than ten days prior to the end of the comment period. The required posted notice was provided on October 24, 2024, in compliance with the requirements of Chapter 300.

The 120-day State mandated deadline was extended at the request of the applicant by 30 days to March 4, 2025.

The applicant’s proposed site plan is included as **Attachment B** and the applicant’s written statement addressing the approval criteria can be found in the record, accessible online as indicated below.

### **SUBSTANTIVE FINDINGS**

#### **2. Proposal**

The proposal seeks to validate a unit of land that was created through conveyance by deed in without land use approval consolidated with a subsequent subdivision of a 0.73 acre property. The proposal submitted by the applicant requests a tentative subdivision plan approval to divide property totaling approximately 0.73-acres in size and located at the 2441 Evergreen Avenue NE (**Attachment A**) into a total of seven lots ranging in size from 1,700 to 2,583 square feet in size.

#### **3. Summary of Record**

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City’s online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 24 107821.

#### **4. Existing Conditions**

##### Site and Vicinity

The subject property is located at 2441 Evergreen Avenue NE (Marion County Assessor’s Map and Tax Lot Number: 073W13CD1/ 0100/ 0101/ 10000), is 0.73 acres in size, and abuts Evergreen Avenue NE to the east. The subject property has street frontage on Evergreen Avenue NE to the east which is designated as a Collector Street under the City’s Transportation System Plan (TSP).

*Urban Growth Policies:* The subject property is located inside the Salem Urban Growth Boundary and inside the corporate city limits.

*Comprehensive Plan Map:* The subject property is designated SF “Single Family Residential” on the Salem Area Comprehensive Plan map.

<b>Comprehensive Plan Map Designations of Surrounding Properties</b>	
<b>North</b>	SF “Single Family Residential”
<b>South</b>	SF “Single Family Residential”
<b>East</b>	Across Evergreen Avenue NE, SF “Single Family Residential”
<b>West</b>	POS “Open Space -Outdoor Recreation”

Zoning Map Designation

The subject property is zoned RS (Single Family Residential). The zoning of surrounding properties is as follows:

<b>Zoning of Surrounding Properties</b>	
<b>North</b>	RS (Single Family Residential)
<b>South</b>	RS (Single Family Residential)
<b>East</b>	Across Evergreen Avenue NE, RS (Single Family Residential)
<b>West</b>	PA (Public Amusement)

Relationship to Urban Service Area

The subject property lies within the City's Urban Service Area. The Urban Service Area is that territory within City where all required public facilities (streets, water, sewer, storm water, and parks) necessary to serve development are already in place or fully committed to be extended.

Infrastructure

The existing conditions of streets abutting the subject property are described in the following table:

<b>Streets</b>			
<b>Street Name</b>		<b>Right-of-way Width</b>	<b>Improvement Width</b>
<b>Evergreen Ave NE (Collector)</b>	Standard:	60-feet	34-feet
	Existing Condition:	60-feet	34-feet

The existing conditions of public infrastructure available to serve the subject property are described in the following table:

<b>Utilities &amp; Parks</b>	
<b>Type</b>	<b>Existing Conditions</b>
<b>Water</b>	Water Service Level: G-0
	A 4-inch water main is located in Evergreen Ave NE.
	A 24-inch water main is located in Evergreen Ave NE.
<b>Sanitary Sewer</b>	A 30-inch sanitary sewer main is located in Evergreen Ave NE.
<b>Storm Drainage</b>	A 12-inch storm main is located in Evergreen Ave NE.

	A 36-inch storm main is located on adjacent State owned property in an easement along the western boundary of the property.
<b>Parks</b>	The proposed development is served by Livingston Park.

**5. Public and Private Agency Review**

Salem-Keizer Public Schools – Reviewed the proposal and provided a memo which is included as **Attachment C**.

City of Salem Building and Safety Division - Reviewed the proposal and indicated no objections.

City of Salem Fire Department - Reviewed the proposal and indicated that items including Fire Department access and water supply will be required per the Oregon fire code at the time of development.

City of Salem Development Services Division - Reviewed the proposal and provided comments pertaining to required City infrastructure needed to serve the proposed development. Comments from the Development Services Division are included as **Attachment D**.

**6. Neighborhood Association and Public Comments**

The subject property is located within the North Lancaster Neighborhood Association (NOLA).

Applicant Neighborhood Association Contact. SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), the tentative subdivision and validation application included in this proposed land use application request requires neighborhood association contact. The applicant’s representative contacted NOLA on April 1, 2024, to provide details about the proposed land use application, in conformance with the requirements of SRC 300.310.

Neighborhood Association Comments

Notice of the application was provided to NOLA pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. No comments were received from SEMCA during the public comment period.

Public Comments

In addition to providing notice to the neighborhood association, notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. Three public comments were received during the comment period

indicating concerns with increased crime and maintenance issues of property following development.

### **Crime**

**Staff Response:** Theft or other illegal activity is a police matter and should be addressed by the Salem Police Department, which has law enforcement jurisdiction over the subject property and vicinity. Approval criteria for a tentative subdivision plan do not address anticipated changes in crime levels, and no evidence has been provided to support the speculation that any crime perpetrated by future residents of the proposed subdivision would exceed what would otherwise occur from any other legal development of property within the City.

**Property Upkeep:** Comments expressed concern about the upkeep of the subject property in recent years.

**Staff Response:** Like other residential properties in the city, the subject property and the proposed parcels are subject to the City's property maintenance code set forth in SRC chapter 50, along with other applicable standards of the SRC to ensure properties do not fall into disrepair. Zoning violations may be reported to the City's Compliance Services Division.

### **Homeowners Association**

The subject property is not located within a Homeowners Association.

## **7. Analysis of Validation of a Unit of Land Approval Criteria**

Pursuant to SRC 205.060(a), a validation of unit of land provides a process whereby a unit of land unlawfully created may be lawfully established.<sup>1</sup> SRC 205.060(d) provides that an application for a validation of unit land shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

### **SRC 205.060(d)(1): The unit of land is not a lawfully established unit of land.**

**Finding:** The subject property (tax lot 10000), in its current configuration, was created in 2003 when it was bifurcated from the parent tract, as described in Reel 2100, Page 449, Marion County Deed Records. The City of Salem would have required land use approval to divide the property at this time, thus causing an unlawful partition. Because the subject property was not created through proper land use procedures, the unit of land was not lawfully established; therefore, this criterion is met.

### **SRC 205.060(d)(2): The unit of land was created through sale or deed or land sales contract executed and recorded before January 1, 2007.**

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<sup>1</sup> Notwithstanding criterion SRC205.060 (d)(3), the Review Authority may approve an application to validate a unit of land that was unlawfully created prior to January 1, 2007, if approval was issued for a permit to allow the construction or placement of a dwelling or other building on the unit of land after the sale. No approval has been issued for such construction on the subject land area.

**Finding:** According to the written statement and staff research, the unit of land was created prior to January 1, 2007, by Reel 2100, Page 449, Marion County Deed Records.

**SRC 205.060(d)(3): The unit of land could have complied with applicable criteria for the creation of the unit of land in effect when the unit of land was sold.**

**Finding:** The property was zoned RS (Single Family Residential) at the time of the conveyance, therefore the RS standards from 2003 were applicable. The applicant provided City of Salem zoning code Chapter 146 – RS Single Family Residential, which was in effect when the unit of land was created by deed. The minimum lot size in the RS zone was 4,000 square feet for single family dwellings, with a minimum width of 40 feet and minimum depth of 70 feet. The subject property is 0.28 acres in size with a width exceeding 40 feet and depth exceeding 70 feet; therefore, the subject property would have complied with the applicable criteria for the creation of the unit of land in effect when the property was created, and this criterion is met.

**SRC 205.005(d)(4): The plat complies with SRC 205.035 and ORS 92.**

**Finding:** The applicant submitted a copy of a proposed plat (**Attachment B**). The Development Services Division and City Surveyor reviewed the proposal and submitted comments describing the procedure and submittal requirements for recording of a final plat.

## **8. ANALYSIS OF TENTATIVE SUBDIVISION PLAN APPROVAL CRITERIA**

SRC Chapter 205.010(d) sets forth the following criteria that must be met before approval can be granted to a tentative subdivision plan. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings of fact evaluating the proposal for conformance with the criteria. Lack of compliance with the following approval criteria is grounds for denial of the tentative plan or for the issuance of conditions of approval to satisfy the criteria.

**Condition 1:** Prior to final plat of the proposed Subdivision, the Validation of a Unit of Land shall be recorded.

***SRC 205.010(d)(1): The tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC, including, but not limited to, the following:***

- (A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage and designation of front and rear lot lines.***
- (B) City infrastructure standards.***
- (C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.***

**Finding:** The Salem Revised Code (SRC), which includes the Unified Development Code (UDC), implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The subject property is zoned RS (Single Family Residential).

The proposed tentative subdivision plan, as conditioned, complies with the applicable standards of the RS zone and all other applicable provisions of the UDC, as required by this approval criterion, as follows:

**SRC Chapter 205 (Land Division and Reconfiguration)**

The intent of SRC Chapter 205 is to provide for orderly land development through the application of appropriate standards and regulations. The partition process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Stormwater System Master Plans. A second review occurs for the created parcels at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final partition plat.

**Finding:** The applicant shall provide the required field survey and partition plat per Statute and Code requirements outlined in the Oregon Revised Statutes (ORS) and SRC. If said documents do not comply with the requirements outlined in ORS and SRC, and as per SRC Chapter 205, the approval of the partition plat by the City Surveyor may be delayed or denied based on the non-compliant violation. It is recommended the applicant request a pre-plat review meeting between the City Surveyor and the applicant’s project surveyor to ensure compliance with ORS 672.005(2)(g)&(h), 672.007(2)(b), 672.045(2), 672.060(4), Oregon Administrative Rules 850 020-0015(4)&(10), 820-020-0020(2), and 820 020-0045(5).

**Condition 1:** Prior to final plat of the proposed Subdivision, the Validation of a Unit of Land shall be recorded.

**SRC Chapter 511 RS (Single Family Residential) zone**

The subject property is zoned RS (Single Family Residential). Development within the RS zone must meet the applicable standards included under SRC Chapter 511. The standards of the RS zone that are applicable to the proposed subdivision are as follows:

▪ **Lot Standards:**

Lot size and dimension standards within the RS zone are established under SRC 511.010(b), Table 511-2. A summary of the lot size and dimension standards applicable to residential uses within the RS zone is provided in the following table:

<b>RS Zone Residential Use Lot Standards</b>		
<b>Lot Area</b>	Min. 1,500 sq. ft.	Applicable to townhouses
	Min. 4,000 sq. ft.	Applicable to all other single family
	Min. 4,000 sq. ft.	Applicable to two family uses
	Min. 5,000 sq. ft.	Applicable to three family uses
	Min. 7,000 sq. ft.	Applicable to four family uses and cottage clusters
<b>Lot Width</b>	Min. 20 ft.	Applicable to townhouses
	Min. 40 ft.	Applicable to all other uses

RS Zone Residential Use Lot Standards		
Lot Depth	Min. 70 ft.	Applicable to single family and two family
	Min. 80 ft.	Applicable to three family uses, four family uses, and cottage clusters.
	Min. 120 ft.	Applicable to double frontage lots ( <i>lots with front and rear lots lines abutting a street</i> ).
	Max. 300% of average lot width	
Street Frontage	Min. 20 ft.	Applicable to townhouses
	Min. 40 ft.	Applicable to all other uses
	Min. 30 ft.	Applicable to lots fronting on the turnaround of a cul-de-sac street or the outside curve of a curved street having a radius of 200 feet or less and a direction change of 60 degrees or more. In no case shall the lot width be less than 40 ft. at the front building setback line.

As shown on the tentative subdivision plan, the lot sizes of the proposed seven lots for residential development range from approximately 1,700 square feet to 2,933 square feet. In addition, there is a proposed private street with open space area totaling 16,821 square feet. Each of the proposed residential lots has a width of 20 feet or greater and a lot depth that is 70 feet or greater, which is suitable for single family townhouses. As previously indicated, Lot 8 is composed of common open space and private street which shall serve the Lot 1-7. All of the proposed lots within the subdivision are in compliance with the minimum lot area, lot dimension, and street frontage standards of the RS zone and are of sufficient size and dimension to permit future development of uses allowed within the zone.

**Condition 2:** Lots 1-7 shall be limited to the development of townhouses and comply with the special use provisions of SRC 700.085.

▪ **Setbacks:**

Setbacks for buildings and accessory structures within the RS zone are established under SRC 511.010(d), Table 511-3. A summary of the required setbacks for residential within the RS zone is provided in the table below.

RS Zone Setbacks		
Abutting Street	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial streets.
Interior Front	Min. 12 ft.	
Interior Side	Min. 5 ft.	Applicable to new buildings, other than zero side yard dwellings and townhouses.
Interior Rear	Min. 14 ft.	Applicable to any portion of a building not more than one-story in height.

<b>RS Zone Setbacks</b>		
	Min. 20 ft.	Applicable to any portion of a building greater than one-story in height.

**Garage Setback:** In addition to the setbacks identified above, SRC 806.025(b) requires garages facing a street or flag lot accessway to be setback a minimum of 20 feet in order to accommodate a driveway and enough space for vehicles to park on the driveway without projecting into the street right-of-way or flag lot accessway.

The setback requirements of the RS zone apply to future development on each of the individual proposed lots. Because the proposal includes only the subdivision of the land to create lots, and no buildings or specific development is proposed for any of the lots at this time, the setback requirements are not generally reviewed at this time. Future development of the proposed lots will be reviewed for conformance with setback requirements at the time of building permit.

**SRC Chapter 800 (General Development Standards)**

▪ ***Designation of Lot Lines.***

SRC 800.020 establishes standards for the designation of front, side, and rear lot lines for interior lots, corner lots, double frontage lots, flag lots, and all other lots.

For lots that have frontage on a street, other than corner lots and double frontage lots, the front lot line shall be the property line abutting the street. The proposed lots have frontage on the proposed private drive, the front lot line for these lots shall be the property line abutting the street.

As proposed Lot 5 shall be a corner lot with the front lot line being designated as northern lot line. There are no flag lots proposed within this application.

**City Infrastructure Standards**

The Development Services Division reviewed the proposal for compliance with the City’s public facility plans pertaining to provision of streets, water, sewer, and storm drainage facilities and determined that the proposed subdivision, with recommended conditions of approval, conforms to the requirements of SRC Chapter 71 (Stormwater), SRC Chapter 802 (Public Improvements), SRC Chapter 803 (Streets and Right-of-Way Improvements), and the Public Works Design Standards (PWDS). While SRC Chapter 205 does not require submission of public construction plans for City infrastructure prior to tentative subdivision plan approval, it is the responsibility of the applicant to design and construct required City infrastructure to serve the proposed development prior to final plat approval without impeding service to the surrounding area.

A summary of the existing and required City infrastructure improvements are as follows:

**SRC Chapter 200 – Urban Growth Management**

SRC Chapter 200 (Urban Growth Management) requires issuance of an Urban Growth Preliminary Declaration (UGA) prior to development of property located outside the City's Urban Service Area.

**Finding:** The subject property is located inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required.

▪ ***Acquisition of property, easements, and right-of-way:***

SRC 200.050(d) requires that right-of-way and easements dedicated to the City be free of encumbrances and liens.

**Finding:** As described in the analysis of SRC Chapter 802 below, easements are required for public utilities on the site. The tentative plat shows multiple existing and proposed easements which may conflict with required dedications of easements. As a condition of approval, the applicant shall ensure required right-of-way is unencumbered, obtain quitclaims from private utility owners where there are conflicts, or receive an adjustment to this standard per SRC 200.050(d).

**Condition 3:** Prior to final plat approval for the subdivision, the applicant shall demonstrate that required easements will meet the standards in SRC 200.050(d) no later than the time of plat recording, unless an adjustment to this standard is approved pursuant to SRC 200.050(d).

### **SRC Chapter 71 – Stormwater**

The proposed development is subject to SRC Chapter 71 and the revised Public Works Design Standards (PWDS) as adopted in Administrative Rule 109, Division 004.

**Finding:** To demonstrate the proposed lots can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit infiltration test results, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities. The stormwater systems shall be tentatively designed to accommodate the future impervious surfaces on all proposed parcels within the partition.

The applicant submitted a preliminary stormwater report which shows two filtration planters and one infiltration planter to serve the proposed subdivision. This infrastructure will be private because it is collecting all private drainage. The Public Works Design Standards require infiltration wherever feasible. As such, modifications to the preliminary stormwater design may be required. In order to demonstrate compliance with SRC Chapter 71 and the Public Works Design Standards, the following conditions apply:

**Condition 4:** Prior to final plat approval of the subdivision, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

**Condition 5:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in the private streets and future impervious surfaces on all proposed lots.

### ***SRC Chapter 802 – Public Improvements***

- ***Development to be served by City utilities:***

SRC 802.015 requires development to be served by City utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS).

**Finding:** Private water, sewer, and storm services shall be constructed to serve each lot. Construction of facilities in the right-of-way is required prior to final plat except as authorized in an improvement agreement per SRC 205.035(c)(7)(B). All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured per SRC 205.035(c)(7)(B) prior to final plat approval.

**Water –** Public water mains are located in Evergreen Avenue NE and available to serve the proposed subdivision. The applicants preliminary utility plan shows extension of a new public main within the proposed internal private streets to provide water service to the proposed subdivision. According to the Public Works Design Standards, a 4-inch public main is the minimum size necessary to provide domestic water service to the subdivision; however, a 4-inch main cannot supply a fire hydrant supply (PWDS 5.3(d)). If a fire hydrant within the new internal streets is required, a minimum 8-inch public main will be required to provide adequate service to the subdivision (PWDS 5.3(d)). As a condition of approval, the applicant shall extend a public water main in the new internal streets to provide water service to the proposed lots.

Pursuant to the Public Works Design Standards, and Salem Revised Code, each lot is required to be provided with an independent connection to the public water system with services that terminate at the property line of each lot (SRC 72.0091; PWDS 5.8(b)). The applicant's preliminary utility plan does not demonstrate how each lot is independently served, rather it shows townhouse units A, B, C, and D being served by one bulk water meter and townhouse units E, F, and G being served by a separate bulk water meter. Service connections are not permitted to be used to supply an adjoining parcel of a different owner (SRC 72.091). An individual service line and water meter is required for each townhouse lot. As a condition of approval, the applicant shall be required to provide an updated utility plan demonstrating how each lot has independent water services to the public system.

In order to comply with SRC Chapter 802 and ensure each lot has adequate water service, the following conditions apply:

**Condition 6:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 4-inch public water main, or 8-inch public water main if providing water supply to a fire hydrant, within the new internal streets to serve the proposed

subdivision. The water main shall be constructed pursuant to the Public Works Design Standards.

**Condition 7:** Prior to final plat approval of the subdivision, the applicant shall provide an updated utility plan that demonstrates how each townhouse lot will be provided with independent connection to the public water system, as required by SRC Chapter 72 and the Public Works Design Standards.

**Sanitary Sewer** – A public sanitary sewer main is located in Evergreen Avenue NE and available to serve the proposed subdivision. The applicant’s preliminary utility plan shows extension of a new public main within the proposed internal private streets to provide sanitary sewer service to the proposed subdivision. According to the Public Works Design Standards, an 8-inch public main is the minimum necessary to provide service to the proposed lots (PWDS 3.2(c)). The applicant’s preliminary utility plan shows each lot will have an independent sanitary sewer connection to this new public main. As a condition of approval, the application shall extend a public sanitary sewer main in the new internal streets to provide sanitary sewer service to the proposed lots. The following condition applies to ensure adequate sanitary sewer service is provided to the subdivision and to comply with SRC Chapter 802:

**Condition 8:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 8-inch public sanitary sewer main within the new internal streets to serve the proposed subdivision. The sanitary sewer shall be constructed pursuant to the Public Works Design Standards.

**Stormwater** – There is an existing public stormwater main in Evergreen Avenue NE available to serve the proposed subdivision. There is also an existing public stormwater main located on adjacent State-owned property in an easement along the western boundary of the property. The applicant’s preliminary utility plan shows the stormwater planters will discharge into the main located on adjacent State-owned property. In order to access this main, an easement will be required for the proposed private stormwater service connecting to the main. Pursuant to SRC 802.020, easements may be required to serve the property with public utilities. As a condition of approval, the applicant shall be required to demonstrate an easement has been obtained to construct a private service lateral on adjacent State-owned property. This ensures the necessary rights are secured for stormwater management infrastructure that connects to the public main on the adjacent property.

**Condition 9:** Prior to final plat submittal of the subdivision, the applicant shall provide documentation of an executed private easement granting the right to construct, access, and maintain a private stormwater service lateral on the adjacent State-owned property. This easement must allow connection to the public stormwater main located within the State-owned property.

As conditioned, the proposed subdivision conforms to the public improvement standards of SRC Chapter 802.

- **Easements:**

SRC 802.020 requires the conveyance or dedication of easements for City utilities as a condition of development approval.

**Finding:** Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat. The applicant's tentative plan shows multiple existing and proposed easements.

**Condition 10:** Prior to final plat approval of the subdivision, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.

The applicant proposes to extend public water and sewer mains within the new internal private street in order to provide utility services to each new lot. The applicant's preliminary utility plan shows a 10-foot easement for the proposed sanitary sewer main. According to the Public Works Design Standards (PWDS), a minimum 20-foot easement is required with an additional 2-feet of width for a pipe greater than 10-feet of cover (PWDS 1.8(b)). The applicant's preliminary utility plan shows a 10-foot easement for the proposed public water main where the PWDS requires a minimum 15-foot easement for public water mains (PWDS 1.8(b)). The applicant's preliminary utility plan also does not show the required easements over proposed service laterals or water meters. In order to ensure adequate access is provided to allow for maintenance of public infrastructure, the applicant shall dedicate a public utility easement over the proposed private streets and sidewalks that contain public utility infrastructure. The public utility easement shall provide a minimum level of easement width required by the PWDS. In order to comply with the Public Works Design Standards Section 1.8 (Easements) and SRC 802.020, the following condition applies:

**Condition 11:** Prior to final plat approval of the subdivision, dedicate a public access and utility easement to the City of Salem over the new private streets and sidewalks to allow access and maintenance of the proposed public utility infrastructure located within the subdivision. The easement shall provide minimum easements widths required for all public infrastructure as described in the Public Works Design Standards Section 1.8 (Easements).

### ***SRC Chapter 803 – Street and Right-of-way Improvements***

- ***Boundary Street Improvements:***

Pursuant to SRC 803.025, except as otherwise provided in this chapter, right-of-way width and pavement width for streets and alleys shall conform to the standards set forth in Table 803-1 (Right-of-way Width) and Table 803-2 (Pavement Width). In addition, SRC 803.040 requires dedication of right-of-way for, and construction or improvement of, boundary streets up to one-half of the right-of-way and improvement width specified in SRC 803.025 as a condition of approval for subdivision applications.

**Finding:** Evergreen Avenue NE abuts the subject property and is classified as a collector street according to the Salem Transportation System Plan (TSP). Evergreen Avenue NE meets the minimum right-of-way width and pavement width standards established in SRC 803.025; therefore, additional improvements along Evergreen Avenue NE are not required. Streetscape improvements along Evergreen Avenue NE are discussed further below.

▪ **Street Standards – New Internal Streets:**

All new public and private streets shall be improved pursuant to the standards outlined in SRC 803.030 and 803.035.

**Finding:** The applicants preliminary subdivision plan shows two new private streets to serve the subdivision, labeled as “Private Street” and “Private Drive” on the subdivision plan. Pursuant to SRC 803.020(b)(2) private streets shall conform to the standards in SRC Chapter 803 and be constructed to meet the Public Works Design Standards. The applicant proposes Alternative Street Standards for both private streets, described in the following analysis:

*Street A (Labeled as “Private Street” on the Preliminary Subdivision Plan)* – This private street will extend west from Evergreen Drive NE and is internal to the proposed subdivision. Street A will be classified as a private Local Street. The applicant proposes a 24-foot improvement width, where 30-feet is required. The applicant proposes a four-foot landscape strip and five-foot sidewalk on the south side of the private street, where streetscape improvements are typically required on both sides of the street. This street provides adequate two-way circulation with parking restrictions and streetscape improvements along the development side of the street. The applicant also proposes an alternative turn around for vehicles in lieu of a cul-de-sac. Due to the in-fill nature of the development, it is not feasible to construct a full public street that meets all of the street standards in SRC Chapter 803. As such, an Alternative Street Standard is approved for this street to allow a reduced pavement width (24-feet), alternative turn around, and streetscape improvements along one side of the street pursuant to SRC 803.065(a)(1).

*Street B (Labeled as “Private Drive” on the Preliminary Subdivision Plan)* – This private street will extend south from Street A and is internal to the proposed subdivision. Street B will be classified as a private Local Street. The applicant proposes a 24-foot improvement width, where 30-feet is required. The applicant proposes a five-foot curblin sidewalk on one side of the street where landscape strips and property line sidewalks are required. This street provides adequate two-way circulation with parking restrictions and will provide pedestrian access on one side of the street. Due to the in-fill nature of the development, it is not feasible to construct a full public street that meets all of the street standards in SRC Chapter 803. As such, an Alternative Street Standard is approved for this street to allow a reduced pavement width (24-foot) and a curblin along one side of the street pursuant to SRC 803.065(a)(1). However, the applicant shall be required to provide a four-foot landscape strip on the eastern side of Street A to accommodate private street trees.

As a condition of approval, the applicant shall construct the proposed private streets to meet the public street standards in the Public Works Design Standards, as required by SRC 803.020(b)(2). In order to ensure compliance with SRC Chapter 803, the following condition applies:

**Condition 12:** Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct internal private streets to Local Street standards as specified in the Public Works Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions:

- a. Street A (Labeled as “Private Street” on the Preliminary Subdivision Plan) is approved to have a 24-foot wide improvement width and 4-foot landscape strip with a 5-foot sidewalk on one side of the street.
- b. Street B (Labeled as “Private Drive” on the Preliminary Subdivision Plan) is approved to have a 24-foot improvement width, curblin sidewalk along the western side of the private street, and a 4-foot landscape strip along the eastern side of the private street.
- c. “No-parking” signage shall be placed along both sides of the new internal private streets.

▪ **Street Trees:**

Pursuant to SRC 803.035(k) and SRC 86.015(e), anyone undertaking development along public streets shall plant new street trees to the maximum extent feasible.

**Finding:** Along Evergreen Avenue NE, there are existing landscape strips which can accommodate additional street trees. New trees along Evergreen Avenue NE would be considered City-owned street trees. The new internal private streets will provide landscape strips on one side of each street to accommodate street trees. Private streets are required to meet the standards of SRC 803, which include street trees. The trees planted along the new internal private streets will be considered private street trees and maintained by the HOA (SRC 803.020(b)(3)). Maintaining private street trees required under SRC 803.020(b)(3) includes keeping trees in good condition and replacing if damaged or dead. In order to ensure compliance with SRC 803.035(k) and SRC 86.015(e), the following condition applies:

**Condition 13:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), install street trees to the maximum extent feasible along Evergreen Avenue NE and the new internal private streets.

**Condition 14:** Private Street Trees planted along the new internal private streets shall be maintained in good health and replaced if damaged or dead.

• **Private Street Maintenance and Operations**

SRC 205.035(f) and SRC 803.020(b)(3) requires that private streets shall have recorded covenants, conditions, and restrictions which provide that all common property owners shall be members of a property owners' association. This owners association is required to ensure common maintenance and operation of all private streets and related facilities.

**Finding:** As described in the written findings above, the new streets internal to the subdivision are considered private streets. As such, these streets and related facilities will be maintained and operated by an owners association. Prior to final plat, the applicant shall provide the documents creating the owners associated for approval by Staff. In order to ensure compliance with SRC SRC 205.035(f) and SRC 803.020(b)(3), following condition applies:

**Condition 15:** Prior to final plat, the applicant shall provide documentation of the homeowner's association meeting SRC 205.035(c) demonstrating that the private streets and related facilities shall be perpetually operated and maintained by a homeowners' association.

▪ ***Public Utility Easements:***

SRC 803.035(n) requires dedication of a 10-foot Public Utility Easement (PUE) along all street rights-of-way, including public and private streets.

**Finding:** The applicant's tentative subdivision plan shows a PUE along the frontage of Evergreen Avenue NE but does not show a PUE along the new internal private streets. The applicant shall be required to dedicate a PUE along one side of the new internal private streets in order to accommodate franchise utility infrastructure necessary to serve the proposed subdivision. The following conditions apply in order to comply with SRC 803.035(n):

**Condition 16:** Prior to final plat approval of the subdivision, provide a 10-foot-wide public utility easement along the frontage of Evergreen Avenue NE.

**Condition 17:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the southern side of Street A (Labeled as "Private Street" on the Preliminary Subdivision Plan).

**Condition 18:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the western side of Street B (Labeled as "Private Drive" on the Preliminary Subdivision Plan).

***SRC Chapter 804 – Driveway Approaches***

SRC Chapter 804 establishes driveway development standards for development to ensure safe and adequate vehicular access is provided.

**Finding:** The applicant's preliminary plans show driveway approaches serving the proposed townhouse lots. SRC 804.050(b)(1) establishes minimum and maximum widths allowed for driveway approaches serving single-family development. The applicants tentative plan shows pairs of townhouses being served by shared driveway approaches measuring 28-feet in width. The maximum driveway approach width for a driveway serving two approved parking spaces is 24-feet (SRC 804.050(b)(1)). As such, driveway approaches serving a pair of townhouses shall be limited to 24-feet in width. The applicants plan shows a single townhouse being served by a 14-foot driveway (Unit G). This driveway meets the minimum and maximum standards for a driveway serving a single parking space (SRC 804.050(b)(1)). As a condition of approval, the applicant shall provide an updated driveway approach plan demonstrating compliance with SRC 804.050(b)(1). The following condition applies:

**Condition 19:** Prior to final plat approval, the applicant shall submit an updated driveway approach plan that demonstrates compliance with SRC 804.050(b)(1). Driveway approaches serving a pair of townhouses (two units) shall be limited to a maximum width of 24-feet. Driveway approaches serving a single townhouse (one unit) shall be limited to a maximum width of 14-feet.

***(A) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.***

***SRC Chapter 601 – Floodplain***

Development in the floodplain shall be regulated to preserve and maintain the capability to the floodplain to convey the flood water discharges and to minimize danger to life and property.

**Finding:** The Floodplain Administrator has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

***SRC Chapter 805 – Vision Clearance (if applicable)***

SRC Chapter 805 establishes vision clearance standards in order to ensure visibility for vehicular, bicycle, and pedestrian traffic at the intersections of streets, alleys, flag lot accessways, and driveways.

**Finding:** The proposal includes a 7-lot subdivision of townhouses and does not include the addition of structures on the site. The proposal does not cause a vision clearance obstruction per SRC Chapter 805. Vision clearance will be verified at time of building permit for each structure.

***SRC Chapter 808 - (Preservation of Trees and Vegetation):***

The City's tree preservation ordinance protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 20 inches or greater, or any other tree with a dbh of 30 inches or greater, but excluding Tree of Heaven, Empress Tree, Black Cottonwood, and Black Locust), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet.

In addition, SRC 808.035(a) requires a Tree Conservation Plan for any development proposal involving the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters. Tree conservation plans are required to preserve all heritage trees, significant trees, trees and native vegetation within riparian corridors, and a minimum of 30 percent of the remaining trees on the property. A Tree Conservation Plan (24-107822-PLN) was submitted in conjunction with the subdivision tentative plan identifying a total of eight trees on the subject property, including one significant tree, a spruce that is 40" in diameter. Four of the trees are proposed for removal, and four, including the significant tree, within an open space area will be retained for a preservation rate of 50 percent.

*SRC 808.035(d)(1)(D): Not less than 30 percent of all trees located on the property are designated for preservation, unless there are no reasonable design alternatives that would enable preservation of such trees.*

There are eight trees on the subject property, a maximum of five trees ( $8 \times 0.7 = 5.6$ ) may be removed in order to comply with the tree preservation requirements of SRC 808.035(d)(1)(D).

The proposed development results in the removal of four trees, and preservation of four trees, exceeding the minimum 30-percent preservation standard, mitigation pursuant to SRC 808.035(e) is not required. Mitigation measures may not be triggered by the application; however, the applicant has proposed to provide an open space area within Lot 8 to preserve the trees. Under SRC 808.035(e)(4), an open space lot will shall be specified in the conditions of the associated land division approval and shall be perpetually operated and maintained by a homeowners' association. As such, the following is conditioned to ensure the maintenance and preservation of the open space area:

**Condition 20:** Prior to final plat of the subdivision, the applicant shall provide documentation of the homeowner's association meeting SRC 205.035(c) demonstrating that the open space lot shall be perpetually operated and maintained by a homeowners' association.

#### *808.046 - Protection measures during construction*

Pursuant to SRC 808.046, any trees or native vegetation required to be preserved or protected under the Unified Development Code (UDC) shall be protected during construction with the installation of an above ground silt fence which shall encompass 100 percent of the critical root zone of the tree or the perimeter of the native vegetation; within the area protected by the above ground silt fence, the tree's trunk, roots, branches, and soil shall be protected to ensure the health and stability of the tree; and there shall be no grading, placement of fill, storage of building materials, or parking of vehicles.

Notwithstanding SRC 808.046(a)(2), up to a maximum of 30 percent of the critical root zone of a tree may be disturbed in order to accommodate development of the property when a report from an arborist is submitted documenting that such disturbance will not compromise the long-term health and stability of the tree and all recommendations included in the report to minimize any impacts to the tree are followed. Fences, patios, landscaping and irrigation, and accessory and similar structures that do not require a building permit, may be placed or constructed within the critical root zone of a tree. Protection measures are required to remain until issuance of notice of final completion for dwelling unit(s) on the lot, or issuance of certificate of occupancy in all other cases.

Final tree protection requirements for development of the property will be identified in the associated Tree Conservation Plan.

#### ***SRC Chapter 809 – Wetlands***

Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetlands laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures. SRC Chapter 809 establishes requirements for notification of DSL when an application for development is received in an area designated as a wetland on the official wetlands map.

**Finding:** The Salem-Keizer Local Wetland Inventory shows that there are hydric soils mapped on the property. The applicant should contact the Oregon Department of State Lands to verify if any permits are required for development or construction in the vicinity of the mapped

wetland area(s), including any work in the public right-of-way. Wetland notice was sent to the Oregon Department of State Lands pursuant to SRC 809.025.

***SRC Chapter 810 – Landslide Hazards***

The City’s landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility.

**Finding:** According to the City’s adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas on the subject property.

***SRC 205.010(d)(2): The tentative subdivision plan does not impede the future use or development of the property or adjacent land.***

**Finding:** The proposed subdivision divides the entire .73-acre property into seven lots. The proposed lots within the subdivision are of sufficient size and dimension to permit development of uses allowed within the zone without impeding the future use or development of the property. The subdivision would not result in the creation of nonconforming development.

The proposed subdivision similarly does not impede the use or development of adjacent land. As shown on the tentative plan, the subdivision provides for internal connectivity via private street that will be used as the primary access point for each of the lots. This approval criterion is met.

***SRC 205.010(d)(3): Development within the tentative subdivision plan can be adequately served by City infrastructure.***

**Finding:** The Development Services division reviewed the proposal and determined that water, sewer, and storm infrastructure are available and appear to be adequate to serve the lots within the proposed subdivision, subject to the conditions of approval established in this decision. This approval criterion is met.

***SRC 205.020(d)(4): The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.***

**Finding:** As described in the findings above, the subject property is located adjacent to Evergreen Avenue NE, which is classified as a collector street under the City’s Transportation System Plan (TSP). The existing condition of Evergreen Avenue NE meets the minimum standards for its classification according to the Salem TSP and SRC Chapter 803. This criterion is met.

***SRC 205.010(d)(5): The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.***

**Finding:** Access to the proposed subdivision will be provided by the network of existing public streets that surround the property. As shown on the tentative subdivision plan, internal private streets are extended through the site to provide safe and convenient access to the proposed lots within the subdivision. As conditioned, the required improvements will ensure that the street system in and adjacent to the subdivision will provide for the safe, orderly, and efficient circulation of traffic to and from the subdivision. This criterion is met.

***SRC 205.010(d)(6): The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.***

**Finding:** The subject property is served by Livingston Park. Access to the park is available through the existing transportation system.

***SRC 205.010(d)(10): When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.***

**Finding:** The subject property is located inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required. This criterion is not applicable.

## **9. Conclusion**

Based upon review of SRC 205.010(d) and 205.060(d), the findings contained under Sections 7 and 8 above, and the comments described, the Tentative Subdivision and comply with the requirements for an affirmative decision. Approval will not adversely affect the safe and healthful development and access to any adjoining lands.

### **IT IS HEREBY ORDERED**

That Tentative Subdivision and Validation of Unit of Land Case No. SUB-VUL24-06, for property located at the 2441 Evergreen Avenue NE, is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, requirements of development, and the conditions of approval listed below, which must be completed prior to final plat approval, unless otherwise indicated:

- Condition 1:** Prior to final plat of the proposed Subdivision, the Validation of a Unit of Land shall be recorded.
- Condition 2:** Lots 1-7 shall be limited to the development of townhouses and comply with the special use provisions of SRC 700.085.
- Condition 3:** Prior to final plat approval for the subdivision, the applicant shall demonstrate that required easements will meet the standards in SRC 200.050(d) no later than the time of plat recording, unless an adjustment to this standard is approved pursuant to SRC 200.050(d).
- Condition 4:** Prior to final plat approval of the subdivision, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

- Condition 5:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in the private streets and future impervious surfaces on all proposed lots.
- Condition 6:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 4-inch public water main, or 8-inch public water main if providing water supply to a fire hydrant, within the new internal streets to serve the proposed subdivision. The water main shall be constructed pursuant to the Public Works Design Standards.
- Condition 7:** Prior to final plat approval of the subdivision, the applicant shall provide an updated utility plan that demonstrates how each townhouse lot will be provided with independent connection to the public water system, as required by SRC Chapter 72 and the Public Works Design Standards.
- Condition 8:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 8-inch public sanitary sewer main within the new internal streets to serve the proposed subdivision. The sanitary sewer shall be constructed pursuant to the Public Works Design Standards.
- Condition 9:** Prior to final plat submittal of the subdivision, the applicant shall provide documentation of an executed private easement granting the right to construct, access, and maintain a private stormwater service lateral on the adjacent State-owned property. This easement must allow connection to the public stormwater main located within the State-owned property.
- Condition 10:** Prior to final plat approval of the subdivision, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 11:** Prior to final plat approval of the subdivision, dedicate a public access and utility easement to the City of Salem over the new private streets and sidewalks to allow access and maintenance of the proposed public utility infrastructure located within the subdivision. The easement shall provide minimum easements widths required for all public infrastructure as described in the Public Works Design Standards Section 1.8 (Easements).
- Condition 12:** Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct internal private streets to Local Street standards as specified in the Public Works Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions.
- Condition 13:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), install street trees to the maximum extent feasible along Evergreen Avenue NE and the new internal private streets.

- Condition 14:** Private Street Trees planted along the new internal private streets shall be maintained in good health and replaced if damaged or dead.
- Condition 15:** Prior to final plat, the applicant shall provide documentation of the homeowner's association meeting SRC 205.035(c) demonstrating that the private streets and related facilities shall be perpetually operated and maintained by a homeowners' association.
- Condition 16:** Prior to final plat approval of the subdivision, provide a 10-foot-wide public utility easement along the frontage of Evergreen Avenue NE.
- Condition 17:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the southern side of Street A (Labeled as "Private Street" on the Preliminary Subdivision Plan).
- Condition 18:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the western side of Street B (Labeled as "Private Drive" on the Preliminary Subdivision Plan).
- Condition 19:** Prior to final plat approval, the applicant shall submit an updated driveway approach plan that demonstrates compliance with SRC 804.050(b)(1). Driveway approaches serving a pair of townhouses (two units) shall be limited to a maximum width of 24-feet. Driveway approaches serving a single townhouse (one unit) shall be limited to a maximum width of 14-feet.
- Condition 20:** Prior to final plat of the subdivision, the applicant shall provide documentation of the homeowner's association meeting SRC 205.035(c) demonstrating that the open space lot shall be perpetually operated and maintained by a homeowners' association.

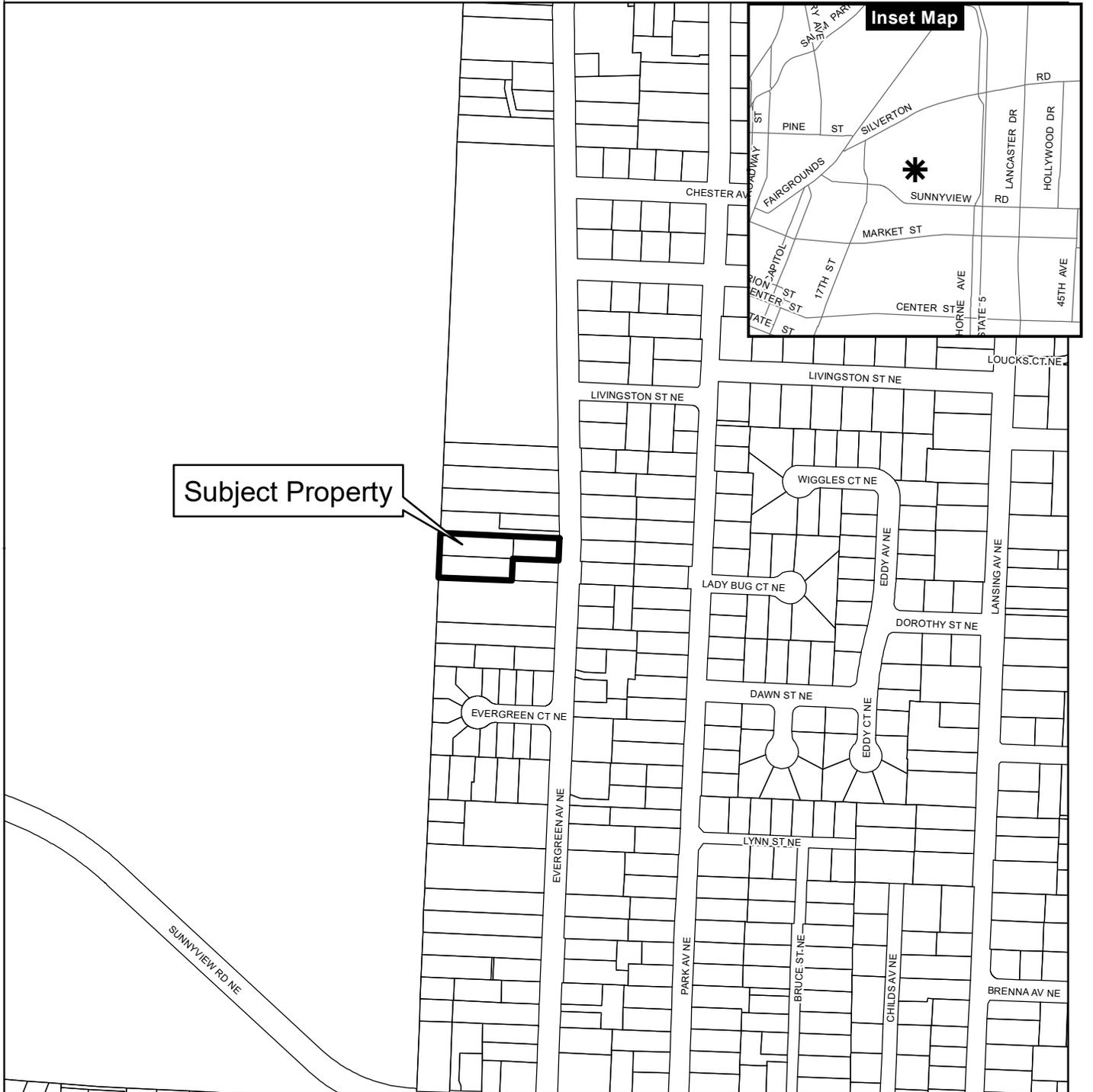


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Jacob Brown, Planner II, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

- Attachments:
- A. Vicinity Map
  - B. Applicant's Tentative Subdivision and Development Plans
  - C. Salem-Keizer Public Schools Memo
  - D. Development Services Memo

# Vicinity Map 2441 Evergreen Avenue NE



Subject Property

**Legend**

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks



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# REQUEST FOR COMMENTS

*Si necesita ayuda para comprender esta información, por favor llame 503-588-6173*

**REGARDING:** Subdivision Tentative Plan / Validation of Units of Land Case No. SUB-VUL24-06

**PROJECT ADDRESS:** 2441 Evergreen Ave NE, Salem OR 97301

**AMANDA Application No.:** 24-107821-PLN

**COMMENT PERIOD ENDS:** Wednesday, November 6, 2024, at 5:00 p.m.

**SUMMARY:** A validation of unit of land for one property, then a subdivision to divide the area to create seven townhouse lots and open space.

**REQUEST:** A consolidated application to validate one unit of land unlawfully created by deed and a tentative subdivision to divide approximately .73 acres to create seven townhouse parcels and open space.

The subject property is approximately .73 acres in size, zoned RS (Single Family Residential), and located at the 2441 Evergreen Avenue NE – 97301 (Marion County Assessor’s Map and Tax Lot number: 073W13CD1/ 0100/ 0101/ 0000).

The Planning Division is interested in hearing from you about the attached proposal. Staff will prepare a Decision that includes consideration of comments received during this comment period. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners or residents. The complete case file, including all materials submitted by the applicant and any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports, are available upon request.

**Comments received by 5:00 p.m., Wednesday, November 6, 2024**, will be considered in the decision process. Comments received after this date will be not considered. *Comments submitted are public record. This includes any personal information provided in your comment such as name, email, physical address and phone number. Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail your comments to the Case Manager listed below, or submit comments online at <https://egov.cityofsalem.net/PlanningComments>*

**CASE MANAGER:** Jacob Brown, Planner II, City of Salem, Planning Division; 555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503-540-2347; E-Mail: [jrbrown@cityofsalem.net](mailto:jrbrown@cityofsalem.net).

For information about Planning in Salem, please visit: <http://www.cityofsalem.net/planning>

**PLEASE CHECK THE FOLLOWING THAT APPLY:**

- 1. I have reviewed the proposal and have no objections to it.
- 2. I have reviewed the proposal and have the following comments: See attached.

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Name/Agency: David Fridenmaker, Salem-Keizer Public Schools

Address: 2450 Lancaster Dr NE, PO Box 12024, Salem OR 97309

Phone: 503-315-0232

Email: fridenmaker\_david@salkeiz.k12.or.us

Date: November 5, 2024

**IMPORTANT: IF YOU MAIL COMMENTS, PLEASE FOLD AND RETURN THIS POSTAGE-PAID FORM**



Andrea Castañeda, Superintendent

November 5, 2024

Jacob Brown, Planner  
Planning Division, City of Salem  
555 Liberty Street SE, Room 305  
Salem OR 97301

RE: Land Use Activity Case No. SUB-VUL24-06, 2441 Evergreen Av NE

The City of Salem issued a Request for Comments for a Land Use Case as referenced above. Please find below comments on the impact of the proposed land use change on the Salem-Keizer School District.

### **IDENTIFICATION OF SCHOOLS SERVING THE SUBJECT PROPERTY**

The School District has established geographical school attendance areas for each school known as school boundaries. Students residing in any residence within that boundary are assigned to the school identified to serve that area. There are three school levels, elementary school serving kindergarten thru fifth grade, middle school serving sixth thru eighth grade, and high school serving ninth thru twelfth grade. . The schools identified to serve the subject property are:

<b>School Name</b>	<b>School Type</b>	<b>Grades Served</b>
Washington	Elementary	K thru 5
Waldo	Middle	6 thru 8
North Salem	High	9 thru 12

*Table 1*

### **SCHOOL CAPACITY & CURRENT ENROLLMENT**

The School District has established school capacities which are the number of students that a particular school is designed to serve. Capacities can change based on class size. School capacities are established by taking into account core infrastructure (gymnasium, cafeteria, library, etc.) counting the number of classrooms and multiplying by the number of students that each classroom will serve. A more detailed explanation of school capacity can be found in the School District's adopted Facility Plan.

School Name	School Type	School Enrollment	School Design Capacity	Enroll./Capacity Ratio
Washington	Elementary	365	444	82%
Waldo	Middle	988	1,313	75%
North Salem	High	2,045	2,248	91%

Table 2

**POTENTIAL ADDITIONAL STUDENTS IN BOUNDARY AREA RESULTING FROM APPROVAL OF LAND USE CASE**

The School District anticipates the number of students that may reside at the proposed development based on the housing type, single family (SF), duplex/triplex/four-plex (DU), multi-family (MF) and mobile home park (MHP). The School District commissioned a study by the Mid-Willamette Valley Council of Governments in 2021 to determine an estimate of students per residence, for the Salem-Keizer area, in each of the four housing types. Since the results are averages, the actual number of students in any given housing type will vary. The table below represents the resulting estimates for the subject property:

School Type	Qty. of New Residences	Housing Type	Average Qty. of Students per Residence	Total New Students
Elementary	7	SF	0.168	1
Middle			0.098	1
High			0.144	1

Table 3

**POTENTIAL EFFECT OF THIS DEVELOPMENT ON SCHOOL ENROLLMENT**

To determine the impact of the new residential development on school enrollment, the School District compares the school capacity to the current enrollment plus estimates of potential additional students resulting from land use cases over the previous two calendar years. A ratio of the existing and new students is then compared with the school design capacity and expressed as a percentage to show how much of the school capacity may be used.

School Name	School Type	School Enrollment	New Students During Past 2 yrs	New Student from this Case	Total New Students	School Design Cap.	Enroll./Cap. Ratio
Washington	Elem.	365	0	1	1	444	82%
Waldo	Mid.	988	6	1	7	1,313	76%
North Salem	High	2,045	146	1	147	2,248	98%

Table 4

**ESTIMATE OF THE EFFECT ON INFRASTRUCTURE – IDENTIFICATION OF WALK ZONES AND SCHOOL TRANSPORTATION SERVICE**

Civic infrastructure needed to provide connectivity between the new residential development and the schools serving the new development will generally require roads, sidewalks and bicycle lanes. When developing within one mile of school(s), adequate pathways to the school should be provided that would have raised sidewalks. If there are a large number of students walking, the sidewalks should be wider to accommodate the number of students that would be traveling the

path at the same time. Bike lanes should be included, crosswalks with flashing lights and signs where appropriate, traffic signals to allow for safe crossings at busy intersections, and any easements that would allow students to travel through neighborhoods. If the development is farther than one mile away from any school, provide bus pullouts and a covered shelter (like those provided by the transit district). Locate in collaboration with the District at a reasonable distance away from an intersection for buses if the distance is greater than ½ mile from the main road. If the distance is less than a ½ mile then raised sidewalks should be provided with stop signs where students would cross intersections within the development as access to the bus stop on the main road. Following is an identification, for the new development location, that the development is either located in a school walk zone or is eligible for school transportation services.

School Name	School Type	Walk Zone or Eligible for School Transportation
Washington	Elementary	Walk Zone
Waldo	Middle	Walk Zone
North Salem	High	Eligible for School Transportation

Table 5

### ESTIMATE OF NEW SCHOOL CONSTRUCTION NEEDED TO SERVE DEVELOPMENT

The School District estimates the cost of constructing new school facilities to serve our community. The costs of new school construction is estimated using the Rider Levett Bucknall (RLB) North America Quarterly Construction Cost Report and building area per student from Cornerstone Management Group, Inc. estimates. The costs to construct school facilities to serve the proposed development are in the following table.

School Type	Number of Students	Estimate of Facility Cost Per Student*	Total Cost of Facilities for Proposed Development*
Elementary	1	\$87,035	\$87,035
Middle	1	\$106,854	\$106,854
High	1	\$126,672	\$126,672
<b>TOTAL</b>			<b>\$320,561</b>

Table 6

\*Estimates based on average of Indicative Construction Costs from “RLB Construction Cost Report North America Q2 2024”

Sincerely,

David Fridenmaker  
Business and Support Services

c: Robert Silva, Chief Operations Officer, David Hughes, Director of Operations & Logistics, T.J. Crockett, Director of Transportation



# MEMO

**TO:** Jacob Brown, Planner II  
Community Planning and Development Department

**FROM:** Laurel Christian, Infrastructure Planner III  
Community Planning and Development Department

**DATE:** December 13, 2024

**SUBJECT: Infrastructure Memo**  
**SUB-VUL24-06 (24-107821-PLN)**  
**2441 Evergreen Avenue NE**  
**VUL and Townhouse Subdivision**

## PROPOSAL

A consolidated application to validate one unit of land unlawfully created by deed and a tentative subdivision to divide approximately .73 acres to create seven townhouse parcels and open space. The subject property is approximately .73 acres in size, zoned RS (Single Family Residential), and located at the 2441 Evergreen Avenue NE - 97301 (Marion County Assessor's Map and Tax Lot number: 073W13CD1/ 0100/ 0101/ 0000).

## RECOMMENDED CONDITIONS APPROVAL

1. Prior to final plat approval for the subdivision, the applicant shall demonstrate that required easements will meet the standards in SRC 200.050(d) no later than the time of plat recording, unless an adjustment to this standard is approved pursuant to SRC 200.050(d).
2. Prior to final plat approval of the subdivision, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
3. Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in the private streets and future impervious surfaces on all proposed lots.

4. Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 4-inch public water main, or 8-inch public water main if providing water supply to a fire hydrant, within the new internal streets to serve the proposed subdivision. The water main shall be constructed pursuant to the Public Works Design Standards.
5. Prior to final plat approval of the subdivision, the applicant shall provide an updated utility plan that demonstrates how each townhouse lot will be provided with independent connection to the public water system, as required by SRC Chapter 72 and the Public Works Design Standards.
6. Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 8-inch public sanitary sewer main within the new internal streets to serve the proposed subdivision. The sanitary sewer shall be constructed pursuant to the Public Works Design Standards.
7. Prior to final plat submittal of the subdivision, the applicant shall provide documentation of an executed private easement granting the right to construct, access, and maintain a private stormwater service lateral on the adjacent State-owned property. This easement must allow connection to the public stormwater main located within the State-owned property.
8. Prior to final plat approval of the subdivision, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
9. Prior to final plat approval of the subdivision, dedicate a public access and utility easement to the City of Salem over the new private streets and sidewalks to allow access and maintenance of the proposed public utility infrastructure located within the subdivision. The easement shall provide minimum easements widths required for all public infrastructure as described in the Public Works Design Standards Section 1.8 (Easements).
10. Prior to final plat approval of the subdivision or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct internal private streets to local street standards as specified in the Public Works Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions:
  - a. Street A (Labeled as "Private Street" on the Preliminary Subdivision Plan) is approved to have a 24-foot wide improvement width and 4-foot landscape strip with a 5-foot sidewalk on one side of the street.

- b. Street B (Labeled as “Private Drive” on the Preliminary Subdivision Plan) is approved to have a 24-foot improvement width, curblin sidewalk along the western side of the private street, and a 4-foot landscape strip along the eastern side of the private street.
  - c. No-parking” signage shall be placed along both sides of the new internal private streets.
11. Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), install street trees to the maximum extent feasible along Evergreen Avenue NE and the new internal private streets.
  12. Private Street Trees planted along the new internal private streets shall be maintained in good health and replaced if damaged or dead.
  13. Prior to final plat of the subdivision, the applicant shall provide documentation of the homeowner’s association meeting SRC 205.035(c) demonstrating that the private streets and related facilities shall be perpetually operated and maintained by a homeowners’ association.
  14. Prior to final plat approval of the subdivision, provide a 10-foot-wide public utility easement along the frontage of Evergreen Avenue NE.
  15. Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the southern side of Street A (Labeled as “Private Street” on the Preliminary Subdivision Plan).
  16. Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the western side of Street B (Labeled as “Private Drive” on the Preliminary Subdivision Plan).
  17. Prior to final plat approval of the subdivision, the applicant shall submit an updated driveway approach plan that demonstrates compliance with SRC 804.050(b)(1). Driveway approaches serving a pair of townhouses (two units) shall be limited to a maximum width of 24-feet. Driveway approaches serving a single townhouse (one unit) shall be limited to a maximum width of 14-feet.

## **EXISTING CONDITIONS – INFRASTRUCTURE**

The existing conditions of streets abutting the subject property are described in the following table:

### **Streets**

Street Name		Right-of-way Width	Improvement Width
Evergreen Ave NE (Collector)	Standard:	60-feet	34-feet
	Existing Condition:	60-feet	34-feet

The existing conditions of public infrastructure available to serve the subject property are described in the following table:

Utilities & Parks	
Type	Existing Conditions
Water	Water Service Level: G-0
	A 4-inch water main is located in Evergreen Ave NE.
	A 24-inch water main is located in Evergreen Ave NE.
Sanitary Sewer	A 30-inch sanitary sewer main is located in Evergreen Ave NE.
Storm Drainage	A 12-inch storm main is located in Evergreen Ave NE.
	A 36-inch storm main is located on adjacent State owned property in an easement along the western boundary of the property.
Parks	The proposed development is served by Livingston Park.

### **SUBDIVISION DECISION CRITERIA**

The following Code references indicate the criteria that must be found to exist before an affirmative decision may be made. The applicable criteria and the corresponding findings are as follows:

***SRC 205.010(d)(1): The tentative subdivision complies with all standards of this Chapter and with all applicable provisions of the UDC, including, but not limited to, the following:***

***(A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines.***

#### ***SRC Chapter 205 – Land Division and Reconfiguration***

The intent of SRC Chapter 205 is to provide for orderly land development through the application of appropriate standards and regulations. The partition process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Stormwater System Master Plans. A second review occurs for the created parcels at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final partition plat.

**Finding:** The applicant shall provide the required field survey and partition plat per Statute and Code requirements outlined in the *Oregon Revised Statutes (ORS)* and

SRC. If said documents do not comply with the requirements outlined in ORS and SRC, and as per SRC Chapter 205, the approval of the partition plat by the City Surveyor may be delayed or denied based on the non-compliant violation. It is recommended the applicant request a pre-plat review meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with ORS 672.005(2)(g)&(h), 672.007(2)(b), 672.045(2), 672.060(4), *Oregon Administrative Rules* 850-020-0015(4)&(10), 820-020-0020(2), and 820-020-0045(5).

### ***(B) City infrastructure standards***

The Development Services division reviewed the proposal for compliance with the City's public facility plans as they pertain to provision of water, sewer, and storm drainage facilities. While SRC Chapter 205 does not require submission of utility construction plans prior to tentative partition plan approval, it is the responsibility of the applicant to design and construct adequate City water, sewer, and storm drainage facilities to serve the proposed development prior to final plat approval without impeding service to the surrounding area. A summary of the existing and required City infrastructure improvements are as follows:

#### ***SRC Chapter 200 – Urban Growth Management***

SRC Chapter 200 (Urban Growth Management) requires issuance of an Urban Growth Preliminary Declaration (UGA) prior to development of property located outside the City's Urban Service Area.

**Finding:** The subject property is located inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required.

- ***Acquisition of property, easements, and right-of-way:***

SRC 200.050(d) requires that right-of-way and easements dedicated to the City be free of encumbrances and liens.

**Finding:** As described in the analysis of SRC Chapter 802 below, easements are required for public utilities on the site. The tentative plat shows multiple existing and proposed easements which may conflict with required dedications of easements. As a condition of approval, the applicant shall ensure required right-of-way is unencumbered, obtain quitclaims from private utility owners where there are conflicts, or receive an adjustment to this standard per SRC 200.050(d).

**Condition:** Prior to final plat approval for the subdivision, the applicant shall demonstrate that required easements will meet the standards in SRC 200.050(d) no later than the time of plat recording, unless an adjustment to this standard is approved pursuant to SRC 200.050(d).

#### ***SRC Chapter 71 – Stormwater***

The proposed development is subject to SRC Chapter 71 and the revised Public Works Design Standards (PWDS) as adopted in Administrative Rule 109, Division 004.

**Finding:** To demonstrate the proposed lots can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit infiltration test results, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities. The stormwater systems shall be tentatively designed to accommodate the future impervious surfaces on all proposed parcels within the partition.

The applicant submitted a preliminary stormwater report which shows two filtration planters and one infiltration planter to serve the proposed subdivision. This infrastructure will be private because it is collecting all private drainage. The Public Works Design Standards require infiltration wherever feasible. As such, modifications to the preliminary stormwater design may be required. In order to demonstrate compliance with SRC Chapter 71 and the Public Works Design Standards, the following conditions apply:

**Condition:** Prior to final plat approval of the subdivision, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

**Condition:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in the private streets and future impervious surfaces on all proposed lots.

### ***SRC Chapter 802 – Public Improvements***

- ***Development to be served by City utilities:***

SRC 802.015 requires development to be served by City utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS).

**Finding:** Private water, sewer, and storm services shall be constructed to serve each lot. Construction of facilities in the right-of-way is required prior to final plat except as authorized in an improvement agreement per SRC 205.035(c)(7)(B). All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured per SRC 205.035(c)(7)(B) prior to final plat approval.

In summary, the subdivision tentative plan will be served adequately by City water, sewer, and stormwater infrastructure upon completion of the conditions described in the analysis provided for each utility type:

**Water** – Public water mains are located in Evergreen Avenue NE and available to serve the proposed subdivision. The applicants preliminary utility plan shows extension of a new public main within the proposed internal privates streets to provide water service to the proposed subdivision. According to the Public Works Design Standards, a 4-inch public main is the minimum size necessary to provide domestic water service to the subdivision; however, a 4-inch main cannot supply a fire hydrant supply (PWDS 5.3(d)). If a fire hydrant within the new internal streets is required, a minimum 8-inch public main will be required to provide adequate service to the subdivision (PWDS 5.3(d)). As a condition of approval, the applicant shall extend a public water main in the new internal streets to provide water service to the proposed lots.

Pursuant to the Public Works Design Standards, and Salem Revised Code, each lot is required to be provided with an independent connection to the public water system with services that terminate at the property line of each lot (SRC 72.0091; PWDS 5.8(b)). The applicant's preliminary utility plan does not demonstrate how each lot is independently served, rather is shows townhouse units A, B, C, and D being served by one bulk water meter and townhouse units E, F, and G being served by a separate bulk water meter. Service connections are not permitted to be used to supply an adjoining parcel of a different owner (SRC 72.091). An individual service line and water meter is required for each townhouse lot. As a condition of approval, the applicant shall be required to provide an updated utility plan demonstrating how each lot has independent water services to the public system.

In order to comply with SRC Chapter 802 and ensure each lot has adequate water service, the following conditions apply:

**Condition:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 4-inch public water main, or 8-inch public water main if providing water supply to a fire hydrant, within the new internal streets to serve the proposed subdivision. The water main shall be constructed pursuant to the Public Works Design Standards.

**Condition:** Prior to final plat approval of the subdivision, the applicant shall provide an updated utility plan that demonstrates how each townhouse lot will be provided with independent connection to the public water system, as required by SRC Chapter 72 and the Public Works Design Standards.

**Sanitary Sewer** – A public sanitary sewer main is located in Evergreen Avenue NE and available to serve the proposed subdivision. The applicants preliminary utility plan shows extension of a new public main within the proposed internal privates streets to provide sanitary sewer service to the proposed subdivision. According to the Public Works Design Standards, an 8-inch public main is the minimum necessary to provide service to the proposed lots (PWDS 3.2(c)). The applicant's preliminary utility plan shows each lot will have an independent sanitary sewer connection to this new public main. As a condition of approval, the application shall extend a public sanitary sewer main in the new internal streets to provide sanitary sewer service to the proposed lots.

The following condition applies to ensure adequate sanitary sewer service is provided to the subdivision and to comply with SRC Chapter 802:

**Condition:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), extend a minimum 8-inch public sanitary sewer main within the new internal streets to serve the proposed subdivision. The sanitary sewer shall be constructed pursuant to the Public Works Design Standards.

**Stormwater** – There is an existing public stormwater main in Evergreen Avenue NE available to serve the proposed subdivision. There is also an existing public stormwater main located on adjacent State-owned property in an easement along the western boundary of the property. The applicant's preliminary utility plan shows the stormwater planters will discharge into the main located on adjacent State-owned property. In order to access this main, an easement will be required for the proposed private stormwater service connecting to the main. Pursuant to SRC 802.020, easements may be required to serve the property with public utilities. As a condition of approval, the applicant shall be required to demonstrate an easement has been obtained to construct a private service lateral on adjacent State-owned property.. This ensures the necessary rights are secured for stormwater management infrastructure that connects to the public main on the adjacent property.

**Condition:** Prior to final plat submittal of the subdivision, the applicant shall provide documentation of an executed private easement granting the right to construct, access, and maintain a private stormwater service lateral on the adjacent State-owned property. This easement must allow connection to the public stormwater main located within the State-owned property.

As conditioned, the proposed subdivision conforms to the public improvement standards of SRC Chapter 802.

- **Easements:**

SRC 802.020 requires the conveyance or dedication of easements for City utilities as a condition of development approval.

**Finding:** Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat. The applicant's tentative plan shows multiple existing and proposed easements.

**Condition:** Prior to final plat approval of the subdivision, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.

The applicant proposes to extend public water and sewer mains within the new internal private street in order to provide utility services to each new lot. The applicant's preliminary utility plan shows a 10-foot easement for the proposed sanitary sewer main

According to the Public Works Design Standards (PWDS), a minimum 20-foot easement is required with an additional 2-feet of width for a pipe greater than 10-feet of cover (PWDS 1.8(b)). The applicant's preliminary utility plan shows a 10-foot easement for the proposed public water main where the PWDS requires a minimum 15-foot easement for public water mains (PWDS 1.8(b)). The applicant's preliminary utility plan also does not show the required easements over proposed service laterals or water meters. In order to ensure adequate access is provided to allow for maintenance of public infrastructure, the applicant shall dedicate a public utility easement over the proposed private streets and sidewalks that contain public utility infrastructure. The public utility easement shall provide a minimum level of easement width required by the PWDS. In order to comply with the Public Works Design Standards Section 1.8 (Easements) and SRC 802.020, the following condition applies:

**Condition:** Prior to final plat approval of the subdivision, dedicate a public access and utility easement to the City of Salem over the new private streets and sidewalks to allow access and maintenance of the proposed public utility infrastructure located within the subdivision. The easement shall provide minimum easements widths required for all public infrastructure as described in the Public Works Design Standards Section 1.8 (Easements).

### ***SRC Chapter 803 – Street and Right-of-way Improvements***

- ***Boundary Street Improvements:***

Pursuant to SRC 803.025, except as otherwise provided in this chapter, right-of-way width and pavement width for streets and alleys shall conform to the standards set forth in Table 803-1 (Right-of-way Width) and Table 803-2 (Pavement Width). In addition, SRC 803.040 requires dedication of right-of-way for, and construction or improvement of, boundary streets up to one-half of the right-of-way and improvement width specified in SRC 803.025 as a condition of approval for subdivision applications.

**Finding:** Evergreen Avenue NE abuts the subject property and is classified as a collector street according to the Salem Transportation System Plan (TSP). Evergreen Avenue NE meets the minimum right-of-way width and pavement width standards established in SRC 803.025; therefore, additional improvements along Evergreen Avenue NE are not required. Streetscape improvements along Evergreen Avenue NE are discussed further below.

- ***Street Standards – New Internal Streets:***

All new public and private streets shall be improved pursuant to the standards outlined in SRC 803.030 and 803.035.

**Finding:** The applicants preliminary subdivision plan shows two new private streets to serve the subdivision, labeled as "Private Street" and "Private Drive" on the subdivision plan. Pursuant to SRC 803.020(b)(2) private streets shall conform to the standards in SRC Chapter 803 and be constructed to meet the Public Works Design Standards. The

applicant proposes Alternative Street Standards for both private streets, described in the following analysis:

*Street A (Labeled as “Private Street” on the Preliminary Subdivision Plan)* – This private street will extend west from Evergreen Drive NE and is internal to the proposed subdivision. Street A will be classified as a private local street. The applicant proposes a 24-foot improvement width, where 30-feet is required. The applicant proposes a 4-foot landscape strip and 5-foot sidewalk on the south side of the private street, where streetscape improvements are typically required on both sides of the street. This street provides adequate two-way circulation with parking restrictions and streetscape improvements along the development side of the street. The applicant also proposes an alternative turn around for vehicles in lieu of a cul-de-sac. Due to the in-fill nature of the development, it is not feasible to construct a full public street that meets all of the street standards in SRC Chapter 803. As such, an Alternative Street Standard is approved for this street to allow a reduced pavement width (24-feet), alternative turn around, and streetscape improvements along one side of the street pursuant to SRC 803.065(a)(1).

*Street B (Labeled as “Private Drive” on the Preliminary Subdivision Plan)* – This private street will extend south from Street A and is internal to the proposed subdivision. Street B will be classified as a private local street. The applicant proposes a 24-foot improvement width, where 30-feet is required. The applicant proposes a 5-foot curblin sidewalk on one side of the street where landscape strips and property line sidewalks are required. This street provides adequate two-way circulation with parking restrictions and will provide pedestrian access on one side of the street. Due to the in-fill nature of the development, it is not feasible to construct a full public street that meets all of the street standards in SRC Chapter 803. As such, an Alternative Street Standard is approved for this street to allow a reduced pavement width (24-feet) and a curblin along one side of the street pursuant to SRC 803.065(a)(1). However, the applicant shall be required to provide a 4-foot landscape strip on the eastern side of Street A to accommodate private street trees.

As a condition of approval, the applicant shall construct the proposed private streets to meet the public street standards in the Public Works Design Standards, as required by SRC 803.020(b)(2). In order to ensure compliance with SRC Chapter 803, the following condition applies:

**Condition:** Prior to final plat approval of the subdivision or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct internal private streets to local street standards as specified in the Public Works Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions:

- a. Street A (Labeled as “Private Street” on the Preliminary Subdivision Plan) is approved to have a 24-foot wide improvement width and 4-foot landscape strip with a 5-foot sidewalk on one side of the street.
- b. Street B (Labeled as “Private Drive” on the Preliminary Subdivision Plan) is

approved to have a 24-foot improvement width, curblin sidewalk along the western side of the private street, and a 4-foot landscape strip along the eastern side of the private street.

- c. "No-parking" signage shall be placed along both sides of the new internal private streets.

- **Street Trees:**

Pursuant to SRC 803.035(k) and SRC 86.015(e), anyone undertaking development along public streets shall plant new street trees to the maximum extent feasible.

**Finding:** Along Evergreen Avenue NE, there are existing landscape strips which can accommodate additional street trees. New trees along Evergreen Avenue NE would be considered City-owned street trees. The new internal private streets will provide landscape strips on one side of each street to accommodate street trees. Private streets are required to meet the standards of SRC 803, which include street trees. The trees planted along the new internal private streets will be considered private street trees and maintained by the HOA (SRC 803.020(b)(3)). Maintaining private street trees required under SRC 803.020(b)(3) includes keeping trees in good condition and replacing if damaged or dead. In order to ensure compliance with SRC 803.035(k) and SRC 86.015(e), the following condition applies:

**Condition:** Prior to final plat approval of the subdivision or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), install street trees to the maximum extent feasible along Evergreen Avenue NE and the new internal private streets.

**Condition:** Private Street Trees planted along the new internal private streets shall be maintained in good health and replaced if damaged or dead.

- **Private Street Maintenance and Operations**

SRC 205.035(f) and SRC 803.020(b)(3) requires that private streets shall have recorded covenants, conditions, and restrictions which provide that all common property owners shall be members of a property owners' association. This owners association is required to ensure common maintenance and operation of all private streets and related facilities.

**Finding:** As described in the written findings above, the new streets internal to the subdivision are considered private streets. As such, these streets and related facilities will be maintained and operated by an owners association. Prior to final plat, the applicant shall provide the documents creating the owners associated for approval by Staff. In order to ensure compliance with SRC SRC 205.035(f) and SRC 803.020(b)(3), following condition applies:

**Condition:** Prior to final plat of the subdivision, the applicant shall provide documentation of the homeowner's association meeting SRC 205.035(c) demonstrating that the private streets and related facilities shall be perpetually operated and maintained by a homeowners' association.

- **Public Utility Easements:**

SRC 803.035(n) requires dedication of a 10-foot Public Utility Easement (PUE) along all street rights-of-way, including public and private streets.

**Finding:** The applicant's tentative subdivision plan shows a PUE along the frontage of Evergreen Avenue NE but does not show a PUE along the new internal private streets. The applicant shall be required to dedicate a PUE along one side of the new internal private streets in order to accommodate franchise utility infrastructure necessary to serve the proposed subdivision. The following conditions apply in order to comply with SRC 803.035(n):

**Condition:** Prior to final plat approval of the subdivision, provide a 10-foot-wide public utility easement along the frontage of Evergreen Avenue NE.

**Condition:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the southern side of Street A (Labeled as "Private Street" on the Preliminary Subdivision Plan).

**Condition:** Prior to final plat approval of the subdivision, provide a 10-foot public utility easement on the western side of Street B (Labeled as "Private Drive" on the Preliminary Subdivision Plan).

### **SRC Chapter 804 – Driveway Approaches**

SRC Chapter 804 establishes driveway development standards for development to ensure safe and adequate vehicular access is provided.

**Finding:** The applicant's preliminary plans show driveway approaches serving the proposed townhouse lots. SRC 804.050(b)(1) establishes minimum and maximum widths allowed for driveway approaches serving single-family development. The applicants tentative plan shows pairs of townhouses being served by shared driveway approaches measuring 28-feet in width. The maximum driveway approach width for a driveway serving two approved parking spaces is 24-feet (SRC 804.050(b)(1)). As such, driveway approaches serving a pair of townhouses shall be limited to 24-feet in width. The applicants plan shows a single townhouse being served by a 14-foot driveway (Unit G). This driveway meets the minimum and maximum standards for a driveway serving a single parking space (SRC 804.050(b)(1)). As a condition of approval, the applicant shall provide an updated driveway approach plan demonstrating compliance with SRC 804.050(b)(1). The following condition applies:

**Condition:** Prior to final plat approval of the subdivision, the applicant shall submit an updated driveway approach plan that demonstrates compliance with SRC 804.050(b)(1). Driveway approaches serving a pair of townhouses (two units) shall be limited to a maximum width of 24-feet. Driveway approaches serving a single townhouse (one unit) shall be limited to a maximum width of 14-feet.

***(C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.***

### ***SRC Chapter 601 – Floodplain***

Development in the floodplain shall be regulated to preserve and maintain the capability to the floodplain to convey the flood water discharges and to minimize danger to life and property.

**Finding:** The Floodplain Administrator has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

### ***SRC Chapter 805 – Vision Clearance (if applicable)***

SRC Chapter 805 establishes vision clearance standards in order to ensure visibility for vehicular, bicycle, and pedestrian traffic at the intersections of streets, alleys, flag lot accessways, and driveways.

**Finding:** The proposal includes a 7-lot subdivision of townhouses and does not include the addition of structures on the site. The proposal does not cause a vision clearance obstruction per SRC Chapter 805. Vision clearance will be verified at time of building permit for each structure.

### ***SRC Chapter 809 – Wetlands***

Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetlands laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures. SRC Chapter 809 establishes requirements for notification of DSL when an application for development is received in an area designated as a wetland on the official wetlands map.

**Finding:** The Salem-Keizer Local Wetland Inventory shows that there are hydric soils mapped on the property. The applicant should contact the Oregon Department of State Lands to verify if any permits are required for development or construction in the vicinity of the mapped wetland area(s), including any work in the public right-of-way. Wetland notice was sent to the Oregon Department of State Lands pursuant to SRC 809.025.

### ***SRC Chapter 810 – Landslide Hazards***

The City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility.

**Finding:** According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas on the subject property.

***SRC 205.010(d)(3): Development within the tentative subdivision plan can be adequately served by City infrastructure.***

**Finding:** The Development Services division reviewed the proposal and determined that water, sewer, and storm infrastructure are available and appear to be adequate to serve the lots within the proposed subdivision, subject to the conditions of approval established in this decision. This approval criterion is met.

***SRC 205.010(d)(4): The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.***

**Finding:** As described in the findings above, the subject property is located adjacent to Evergreen Avenue NE, which is classified as a collector street under the City's Transportation System Plan (TSP). The existing condition of Evergreen Avenue NE meets the minimum standards for its classification according to the Salem TSP and SRC Chapter 803. This criterion is met.

***SRC 205.010(d)(5): The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.***

**Finding:** Access to the proposed subdivision will be provided by the network of existing public streets that surround the property. As shown on the tentative subdivision plan, internal private streets are extended through the site to provide safe and convenient access to the proposed lots within the subdivision. As conditioned, the required improvements will ensure that the street system in and adjacent to the subdivision will provide for the safe, orderly, and efficient circulation of traffic to and from the subdivision. This criterion is met.

***SRC 205.010(d)(6): The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.***

**Finding:** The subject property is served by Livingston Park. Access to the park is available through the existing transportation system.

***SRC 205.010(d)(7): The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis (TIA), where applicable.***

**Finding:** The proposed 7-lot subdivision generates less than 1,000 average daily vehicle trips to the collector street system (Evergreen Avenue NE). Therefore, a TIA is not required as part of the proposed subdivision submittal per SRC 803.015(b)(1). This criterion is met.

***SRC 205.010(d)(10): When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.***

**Finding:** The subject property is located inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required. This criterion is not applicable.

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cc: File